

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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INA STEINER, DAVID STEINER, and  
STEINER ASSOCIATES, LLC,

Plaintiffs,

v.

EBAY INC., et al.,

Defendants.

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Civil Action No. 21-CV-11181-PBS

**DEFENDANT EBAY INC'S RESPONSE TO  
GOVERNMENT'S MOTION FOR PROTECTIVE ORDER**

Defendant eBay Inc. (“eBay”) hereby responds to the Government’s Motion for Protective Order. ECF No. 273. eBay and several other defendants have met and conferred with the Government to discuss narrowing the proposed protective order to address concerns regarding overbreadth and burden while also preserving the Government’s interest in protecting classified information. eBay and the Government have reached agreement on a narrower version of the protective order, which is attached as Exhibit A (the “Revised Protective Order”).<sup>1</sup> The Government has communicated that the Revised Protective Order is acceptable. Defendants Devin Wenig, Steve Wymer, Wendy Jones, Jim Baugh, David Harville, Philip Cooke, Stephanie Popp, and Brian Gilbert have indicated they do not oppose the Revised Protective Order. Defendants Progressive F.O.R.C.E. Concepts, LLC, Steve Krystek, Veronica Zea, and Stephanie Stockwell have not responded to requests for their position.

eBay acknowledges the Government’s need to protect classified information.

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<sup>1</sup> A redline reflecting the changes between eBay’s proposed order and the Government’s proposed order is attached as Exhibit B

Nevertheless, as eBay has explained to the Government, eBay objects to the version of the protective order originally submitted with the Government’s motion, *see* ECF No. 273-2 (the “Original Draft”), for several reasons. *First*, the Original Draft included an overbroad definition of “Protected Information” that could be read to prohibit legitimate discovery into non-classified matters. *See* Original Draft ¶ 1 (prohibiting parties from using, disclosing, or eliciting testimony concerning “Protected Information”). The Original Draft defines “Protected Information” to include any “nonpublic relationship[]” between any of the parties and the U.S. Government. Original Draft ¶ 2(a). This could be read to include nonpublic relationships in connection with the criminal investigation that are wholly unrelated to classified information, such as Jim Baugh’s (or other defendants’) interactions with the U.S. Attorney’s Office. There is no basis for restricting discovery in this manner. *Second*, the Original Draft would require the parties to provide the Government with advance copies of all pleadings or documents “that reference[] or relate[] in any way to (1) the U.S. Government, including any agency or entity of the U.S. Government, or (2) Defendant James Baugh.”<sup>2</sup> *Id.* at 5. There is no reason, however, to expect that there are any classified documents relating to the U.S. Government that do not mention Baugh—a point the Government has now acknowledged. Accordingly, requiring preclearance of all pleadings or documents that reference the U.S. Government but not Baugh is overbroad, unnecessarily burdensome for the parties, and an unnecessary impediment to advancing this litigation.

Because the Revised Protective Order addresses these concerns while protecting the Government’s legitimate interest in safeguarding classified information, eBay respectfully requests that the Court deny the Government’s Motion for entry of the proposed protective order

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<sup>2</sup> In the Original Draft, the Government carves out a narrow exception to its proposed preclearance requirements for pleadings or documents “if the reference or relation to the U.S. Government or Defendant James Baugh exclusively concerns events occurring on or after July 1, 2018.” *Id.*

contained at ECF No. 273-2 and instead enter the Revised Protective Order at Exhibit A.

Dated: November 7, 2023

Respectfully submitted,

/s/ Jack W. Pirozzolo

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 7, 2023, this document, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants. An email copy was sent to pro se defendant Stephanie Stockwell.

Dated: November 7, 2023

/s/ Jack W. Pirozzolo  
Jack W. Pirozzolo